IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6857 of 2007()

CRIME NO. 520/07 OF PUNALUR POLICE STATION

PETITIONER: ACCUSED NO.2:

SHAJI, AGED 25 YEARS, CHARUVILA
PUTHEN VEEDU, MOORTHIKKAVU, PUNALUR.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM (CRIME NO. 520 OF 2007 OF PUNALUR
POLICE STATION)

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6857 of 2007

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Dated this the 14th day of November, 2007

O R D E R

Application for anticipatory bail. Petitioner is the second accused in a crime registered for offences punishable, inter alia, under Section 452 I.P.C., which is the only non-bailable offence alleged. The first accused has been granted anticipatory bail. Some other accused have been granted regular bail also.

2. The crux of the allegations is that the accused persons had gone to the employee of the mother of the first accused and had trespassed into the building occupied by him. There is some dispute between the mother of the first accused and the first accused regarding properties.

3. The learned counsel for the petitioner submits that the petitioner is innocent and he may be granted anticipatory bail.

3. The learned Prosecutor opposes the application. He submits that the petitioner has criminal antecedents and that there are no circumstances justifying or warranting invocation of the discretion under Section 438 Cr.P.C. in his favour.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am unable to find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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